

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Earnest Monroe and Betty Monroe

Case No. 09-81219

Chapter 13

Soc. Sec. No.: xxx-xx-8057 and xxx-xx-6570

Mailing Address:

Post Office Box 152

Olivia, NC 28368

Debtors

MOTION TO RESTRICT ACCESS TO FILED DOCUMENT

NOW COMES the Debtors Earnest Monroe and Betty Monroe, by and through counsel, upon this Motion to Restrict Access to Filed Document, seeking relief pursuant to 11 U.S.C. Sections 105(a) and Bankruptcy Rule 9037(d)(2).

1. That this matter is a core proceeding pursuant to 28 U.S.C. Section 157, and that the Court has jurisdiction pursuant to 28 U.S.C. Sections 151, 157 and 1334.
2. On or about 7/23/2009, the Debtors filed for protection under Chapter 13 of the Bankruptcy Code.
3. On or about 8/4/09, Creditor Duke University Health System, acting as collection agent for Private Diagnostic Clinic, PLLC, filed Proof of Claim #11 in the amount of \$1,376.63.
4. The Proof of Claim consisted of 8 pages and displayed the Debtors's social security number, and other sensitive data. The Proof of Claim also disclosed Debtor's individually identifiable health information, containing medical procedure codes, treatment dates and provider names, without redaction.
5. The Proof of Claim is a public document and the Creditor has made the Debtor's private data, sensitive and nonpublic personal medical treatment information available to the general public.
6. The publication of this private information violates various state and federal laws, local court rules, numerous common law torts and is in violation of Bankruptcy Rule 9037.
7. As a result of such violations the debtor has suffered actual damages, including emotional distress.

WHEREFORE, said Debtors respectfully pray of this court as follows:

- A) That the Court issue an order requiring the Clerk of Court to immediately restrict public access to the documents mentioned above.
- B) For such other relief as is just and proper.

Dated: October 26, 2009

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s/ Edward C. Boltz

Edward C. Boltz

N.C. State Bar No. 23003

1738 Hillandale Road

Suite D

Durham, N.C. 27705

(919)-286-1695

CERTIFICATE OF SERVICE

I, Koury L. Hicks, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on October 27, 2009, I served the foregoing **MOTION TO RESTRICT ACCESS TO FILED DOCUMENT** by depositing a copy of same in the U.S. mail, postage prepaid, or by electronic service addressed to the following parties:

DUKE UNIVERSITY HEALTH SYSTEM
Attn: Managing Agent
4101 N. Roxboro Road
Durham, NC 27704-

Richard M. Hutson, II
Chapter 13 Trustee
P.O. Box 3613
Durham, N.C. 27702-3613

/s/ Koury L. Hicks
Koury L. Hicks